

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

M&S ADVISORY GROUP, INC.,

Plaintiff,

vs.

EYEMART EXPRESS, LTD.,

Defendant.

CASE NO. C-1-02-522

Hon. Arthur Spiegel

**PROTECTIVE ORDER
PURSUANT TO STIPULATION**

This Stipulated Protective Order is entered pursuant to Federal Rule of Civil Procedure 26(C).

It is hereby stipulated and the Court orders that:

1. Documents and information produced in response to discovery requests in this action and designated or deemed to be confidential pursuant to paragraphs 6 or 7 of this Order (hereafter “Confidential Information”) shall be used only for preparation and presentation of the parties’ claims and defenses in this action.

2. If any party objects to a designation of Confidential Information, the Court may, upon motion, order the designation removed if it finds that the document or information is not confidential or otherwise entitled to protection under Rule 26(C) of the Ohio Rules of Civil Procedure.

3. Confidential Information may only be inspected by and disclosed to the parties, their counsel, witnesses, and any independent consultants or experts

retained by a party and/or counsel who need to know the information for purposes of this action.

4. Individuals to whom Confidential Information is shown, furnished or disclosed shall be first given a copy of this Order, shall be subject to its terms and, except for parties and/or counsel, shall sign an agreement to be bound by this Order in the form of Attachment A hereto.

5. Confidential Information shall not be delivered or disclosed, specifically or in substance, to anyone other than the individuals set forth in paragraph 3 of this Order.

6. To be Confidential Information subject to this Order, documents or other information (other than deposition testimony) produced in response to discovery requests must be designated with the legend "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER" either at the time of production or within 14 days of the entry of this Order. Notwithstanding the foregoing, in the event a party provides another party with access to review documents in response to discovery requests, the legend "CONFIDENTIAL" need not be placed on the documents until such time as the discovering party indicates which documents will be copied and the copies are delivered to the discovering party. Until the copies are delivered to the discovering party all documents to which the discovering party has been given access shall be deemed Confidential Information. In addition, all documents to which the discovering party is given access, and which the discovering party does not designate to be copied and delivered, shall be deemed Confidential Information.

7. To be Confidential Information subject to this Order, deposition testimony must be designated as confidential by counsel of a party either by a statement on the record during the deposition or by subsequent correspondence within three (3) days of the testimony or by subsequent correspondence within 14 days of the entry of this order. Such designation must identify with reasonable particularity the testimony that is to be designated confidential.

8. In the event that any Confidential Information appears in or as an exhibit or attachment to any deposition transcript, motion, pleading or other document that is filed with the Court, such Confidential Information shall be filed under seal pursuant to this Order in envelopes that are marked on the outside “CONFIDENTIAL - FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER.”

9. Within twenty-one (21) days of the settlement, final adjudication or other final resolution of this action, all documents and information designated as Confidential Information, and any copies or reproductions thereof, shall be returned to counsel for the producing party.

10. The terms of this Order shall continue unless and until modified or terminated by further Order of this Court or upon written agreement of the parties.

IT IS SO ORDERED.

KATZ, TELLER, BRANT & HILD

/S/Robert A. Pitcairn
Robert A. Pitcairn, Jr. (0010293)
WijdanJreisat (0063955)
Trial Attorney for Plaintiff
Katz, Teller, Brant & Hild

DINSMORE & SHOHL LLP

/S/Michael W. Hawkins
Michael W. Hawkins (0012707)
Jon B. Allison (0073955)
Trial Attorneys for Defendant
Dinsmore & Shohl

**255 East Fifth Street, Suite 2400
Cincinnati, Ohio 45202-4787
(513) 977-3477 telephone
(513) 762-0077 facsimile**

**Attorneys for Plaintiff
M&S Advisory Group, Inc.**

**255 E. Fifth Street, Suite 1900
Cincinnati, Ohio 45202
(513) 977-8270 telephone
(513) 977-8141 facsimile**

**Attorneys for Defendant
EyeMart Express, Ltd.**

This order is subject to further Order of the Court.

SO ORDERED this 13th day of February, 2004.

**s/Timothy S. Hogan
United States Magistrate Judge**

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CASE NO. C-1-02-522

M&S ADVISORY GROUP, INC.,	:	<u>UNDERTAKING PURSUANT TO</u>
	:	<u>PROTECTIVE ORDER</u>
	:	
Plaintiff,	:	
	:	
vs.	:	Hon. Arthur Spiegel
	:	
EYEMART EXPRESS, LTD.,	:	
	:	
Defendant.	:	

I, _____, state that:

1. I have received a copy of the Protective Order governing the protection and exchange of confidential material ("the Protective Order") entered in this case on _____, 2004.

2. I have carefully read and understand the provisions of the Protective Order and agree to comply with all of the provisions of the Protective Order.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed this ____ day of _____, 2004.

Signature

Type or Print Name